

Lyew, Sandra

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1           A.       Yes. And they communicate right -- they  
2       communicate through e-Oscar.

3           Q.       Is there a separate form from the ACDV  
4       that OCWEN responds to the ACDV with?

5           A.       Everything is automated through the  
6       system, so based on their response, OCWEN's response,  
7       back to the credit agency is through e-Oscar.

8           Q.       Is that on the same ACDV form or is  
9       there a separate form generated?

10          A.       It's in the system, so it could be under  
11       the ACDV section it responds back to -- so the ACDV  
12       is basically a screen through their system.

13          Q.       Their being the credit reporting  
14       agency's --

15          A.       Yes.

16          Q.       -- e-Oscar system?

17          A.       e-Oscar system.

18          Q.       So OCWEN receives an ACDV from, for  
19       instance, Equifax, and do they just fill in that same  
20       form online with their response or do they generate a  
21       new form or something substantive, besides that form,  
22       in their response?

23          A.       Everything is based on how the ACDV came  
24       in. And it's responded through the same ACDV.

25          Q.       And is that true regardless of outcome

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1 of the investigation, such as confirm the debt,  
2 update the account, or delete the account?

3 A. Yes. Everything is based on the actual  
4 type of dispute.

5 Q. But the -- it's all through the same  
6 ACDV, regardless of the reinvestigation result?

7 A. Right. So if the investigation came  
8 from the national credit agency through an ACDV,  
9 that's how it gets responded back. It goes  
10 through -- if it came in as an escalation, then I  
11 believe they use a different form, the AUD, automated  
12 universal form.

13 Q. What do you mean, escalation?

14 A. That's how I take, you know -- I call it  
15 AUD. I call it like an escalation.

16 Q. And can you explain why that would be an  
17 escalation?

18 A. No.

19 Q. Just --

20 A. You know, as far as specific questions  
21 relating to this loan, I can explain it to you;  
22 however, in general I call it an escalation versus a  
23 normal ACDV dispute from a credit agency. The AUD is  
24 an actual form that reassures that it confirms even  
25 more. And, you know, to an extent the credit

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1 agencies probably take that more of a priority than  
2 an ACDV.

3 Q. So with a typical dispute, OCWEN  
4 responds through the ACDV, they fill out the same  
5 form, and respond that way?

6 A. To respond -- in response to the  
7 borrower's account, yes.

8 Q. But in certain circumstances OCWEN will  
9 escalate their response to an AUDF?

10 A. Depending -- for instance, in this loan  
11 an AD was respond -- in response to a Consumer  
12 Protection Financial Bureau response and reconfirming  
13 to the bureau based on -- as well as their findings.

14 Q. Does an AUDF provide additional  
15 responses that an ACDV does not?

16 A. Depending on the dispute.

17 Q. OCWEN can receive an AUDF even without  
18 receiving a dispute; is that correct?

19 A. Yes, they can.

20 Q. It's not dependent on a dispute from a  
21 borrower or a reporting agency?

22 A. Correct.

23 Q. I'm sorry. I'm just stuck on this term,  
24 escalation.

25 A. That's the only way I can remember it.

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1 This has nothing to do -- this is my personal --

2 Q. Sure.

3 A. -- as far as trying to identify the two  
4 forms.

5 Q. So you would send an AUDF, in you mind,  
6 when there is an issue that merits more attention?

7 A. Well, an AUD form is just confirming  
8 that if there are, say, changes to an account, not  
9 this account, changes that need to be made upon  
10 factual information, then an AUD would be sent.

11 Q. Am I correct to assume that an AUDF  
12 would not be sent just to confirm existing  
13 information, it would only be sent to change  
14 information?

15 A. Back to this loan, it was sent as far as  
16 a response that -- to reconfirm what was -- what was  
17 received from the findings the Consumer Financial  
18 Bureau had sent stating that it was an error of  
19 Equifax and not OCWEN. And OCWEN, which not required  
20 but they did anyway, to reconfirm that -- you know,  
21 to Equifax that the same findings that was sent all  
22 along to the monthly data that gets sent over to them  
23 as far as how the account was reported, and reported  
24 as only one trade line.

25 Q. Now, in a situation where the credit

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1 reporting department receives an ACDV, we've talked  
2 about they can look at any other department in OCWEN  
3 to investigate. What else would they take into  
4 account? For instance, if there was prior complaints  
5 by a borrower, would they -- would those be  
6 considered in the current dispute?

7 A. They'll check to see how many disputes  
8 the same disputes have come in in regards to the  
9 account, and whether there was something slightly  
10 similar or pretty much the same -- pretty much the  
11 same for this account. But there has been no changes  
12 because OCWEN has always reported to all the bureaus  
13 correctly.

14 Q. So if they do check and they see similar  
15 disputes in the past, would they make a note in their  
16 logs saying this is a frivolous dispute, so to speak?

17 A. No. They just -- they'll notate the  
18 account accordingly based on the current dispute that  
19 comes in, whether it's the same or slightly different  
20 or pretty much -- for instance, this account -- the  
21 same.

22 Q. And that's one thing I noticed -- we'll  
23 get into it -- is it seems like OCWEN conducted an  
24 investigation each time.

25 A. That is correct.

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1           Q.       And does OCWEN ever say -- refuse to  
2       conduct a reinvestigation if they deem a dispute is  
3       repetitive?

4           A.       It's regardless whether it's the same or  
5       not, to still conduct the same account -- same  
6       review, research.

7           Q.       And now, so when OCWEN returns the ACDV  
8       to the credit reporting agency --

9           A.       Yes.

10          Q.       -- are there any additional markings on  
11       the account based on the dispute? For instance, is  
12       there a compliance code added noting that this  
13       account was disputed, regardless of whether it was  
14       affirmed, updated, or deleted?

15          A.       Right. I mean, OCWEN is not required to  
16       put a compliance code, but there are times with this  
17       account that they have noted the account as an XB.  
18       But they've never reported it -- the account late,  
19       regardless.

20          Q.       So even if a consumer disputes an  
21       account, OCWEN doesn't always dispute it or mark it  
22       as disputed?

23                   MR. MANNING: Object to the form.

24                   You can answer.

25                   THE WITNESS: They're not required to do

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1 so. They do it based on -- based on the dispute or  
2 they just more so of the -- on behalf of the  
3 borrower. But in this case, as I mentioned earlier,  
4 that the account has never been as far as reported  
5 late.

6 BY MR. NOLAN:

7 Q. So can you give me an example of an  
8 account where OCWEN would not enter a compliance code  
9 of disputed, such as XB or XH? Why would -- let me  
10 rephrase that.

11 Under what circumstance would OCWEN not  
12 mark the account as disputed in responding to a  
13 dispute?

14 A. Well, again, it depends on the type of  
15 dispute.

16 Q. What types of disputes would get that  
17 marking?

18 A. In this case the credit reporting, the  
19 credit reporting, XB was, you know, noted to the  
20 accounts, but again, like I mentioned earlier, it's  
21 not required based on the type of dispute. After the  
22 last -- granted that the borrower was in default at  
23 one time in 2012 and he had brought the loan current,  
24 so that was reported as far as the lates on that.  
25 After he brought the loan current, he was then -- we

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1 then reported 30 days because he was late, but after  
2 that he was not. OCWEN has never reported on the  
3 account even by applying the XB code or any other  
4 type of codes.

5 Q. I'm just asking more generally. What  
6 type of accounts would OCWEN decline to put a  
7 disputed code in responding to a dispute?

8 MR. MANNING: Object to the form. Calls  
9 for an opinion.

10 THE WITNESS: Yeah. That calls for an  
11 opinion.

12 MR. MANNING: If you know, you can  
13 answer.

14 THE WITNESS: I don't know as far as the  
15 types. I can only go by --

16 BY MR. NOLAN:

17 Q. Who makes those determinations? Let me  
18 ask, who determines when to place a dispute code on a  
19 disputed account?

20 A. It would be the credit reporting  
21 department.

22 Q. Do they have guidelines that they  
23 follow?

24 A. Yes, they do.

25 Q. Are you familiar with those guidelines?

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1           A.       The guidelines on -- they have training.  
2       They go through -- they do have a training process.  
3       They have -- they go as far as, part of their  
4       training, the type of discretions in regards to what  
5       determines a compliance code, to conduct the  
6       investigation, and how to -- they have policies and  
7       procedures that they have to go by.

8           Q.       And are you, as you sit here today,  
9       familiar with what those policies and guidelines  
10      require or direct or instruct the credit reporting  
11      department employees?

12          A.       Right. They go through the policies and  
13      procedures -- again, I don't know verbatim, but they  
14      do have the policies and procedures. They have codes  
15      they have to go by, system codes, regulated codes for  
16      the CRA. They get trained for the e-Oscar system and  
17      how to respond to that.

18          Q.       And I believe you used the term, in the  
19      policies regarding the dispute codes, the discretion  
20      guidelines. So are the credit reporting department  
21      employees given discretion on when to apply a dispute  
22      code versus not?

23          A.       Well, in this case a compliance -- for  
24      XB code, a compliance code. So based on my review of  
25      this loan, that discretion was used. It's not

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1 required to note -- to code the account as XB based  
2 on the dispute, knowing that OCWEN has reported to  
3 the credit agencies with only one trade line  
4 correctly.

5 Q. What factors do the guidelines instruct  
6 these employees to consider when using their  
7 discretion on whether to apply a dispute code?

8 A. I don't -- I don't remember. I don't  
9 know.

10 Q. So I guess -- I know we got into  
11 ballpark numbers earlier talking out of potentially  
12 100,000 current loans being serviced by OCWEN there  
13 was at least 100 disputes filed either by consumers  
14 or through a credit reporting agency. Does that  
15 recollect correctly what we talked about earlier?

16 A. OCWEN services over a hundred -- hundred  
17 thousandths of loans. As far as an exact number  
18 figure, I can only probably guess over 100. I did  
19 not ask or get a ballpark figure on how much -- how  
20 many disputes come in per month or per year.

21 Q. But so likely at least 100, maybe less  
22 than 500, I'm sure, what the high end would be?

23 A. I can't guess on that. I don't know.

24 Q. Sure.

25 And so my question is what percentage of

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1 these disputes are resolved through these data  
2 conformity reviews that we discussed where the  
3 borrower's name matches, Social Security number,  
4 property address?

5 MR. MANNING: Object to the form.

6 You can answer.

7 THE WITNESS: The agencies get reported  
8 every month. As far as any disputes, if a dispute  
9 comes in, they do get responded within 30 days based  
10 on the dispute. Whether it's correct or incorrect --  
11 if it's correct, then OCWEN would -- as far as send  
12 a -- respond what needs to be done correctly.

13 BY MR. NOLAN:

14 Q. Sure.

15 Is there always a live human who  
16 receives a dispute from a credit reporting agency?  
17 Let me ask it this way: Are any ACDVs received  
18 responded to simply in an automated fashion?

19 A. **There is a live person that has to**  
20 **retrieve this information and respond.**

21 Q. Okay. Now might be a good time starting  
22 to dig through and get into specifics here. What I'm  
23 looking at doing -- I've got the comment logs. I've  
24 got ACDVs and ACDV responses. And I'm going to try  
25 to work them in all together to see if we can get the

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1 whole picture as we go along.

2 MR. MANNING: Sure.

3 MR. NOLAN: So try to bear with me.

4 BY MR. NOLAN:

5 Q. But before we dig too far into that, I  
6 know you stated that Litton Loan files are still  
7 available for you to review, correct?

8 A. Yes. For OCWEN to review.

9 Q. It's my understanding one of the issues  
10 in this case was the open date of this mortgage --

11 A. Okay.

12 Q. -- as it was reported.

13 Is that correct based on your review?

14 A. Part of the review, yes.

15 Q. Just by way of example, if we could mark  
16 this as Exhibit 2.

17 (Exhibit No. 2 was marked for  
18 identification.)

19 BY MR. NOLAN:

20 Q. I've handed you a Notice of Default from  
21 Litton Loan Servicing, correct?

22 A. Yes.

23 Q. This Notice of Default references a Deed  
24 of Trust for mortgage dated August 26th, 1999,  
25 correct?

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1           **A.       That's correct.**

2           Q.       And is it your understanding that that  
3 is referencing the loan in dispute in this case?

4           **A.       Yes, but Litton Loan Servicing has the**  
5 **incorrect date for the Deed of Trust.**

6           Q.       Can you tell us where that date came  
7 from?

8           **A.       No.**

9           MR. NOLAN: Mark this as Exhibit 3.

10                   (Exhibit No. 3 was marked for  
11 identification.)

12 BY MR. NOLAN:

13           Q.       Give you a second to look over that  
14 packet.

15           **A.       Okay.**

16           Q.       Can you describe what these are?

17           **A.       This is an ACDV form that Litton**  
18 **Mortgage used.**

19           Q.       And they're marked -- they're stamped  
20 with a draft stamp, kind of large, across the face of  
21 it. Can you tell me why that was?

22           **A.       No. This is prior to OCWEN Loan**  
23 **Servicing.**

24           Q.       Were these potential frozen scans of  
25 information that was reported?

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1           A.       This is business records that came over  
2       from their business system to our business record  
3       system.

4           Q.       On the page marked 594 in the bottom  
5       corner, I'm looking in the middle of the page at the  
6       date open box. It's reported as August 1st, 1999,  
7       correct?

8           A.       Yes. I see that.

9           Q.       And that's different from the date open  
10      we saw on the previous Notice of Right to Cure  
11      Default on Exhibit 2, correct, which was August 26,  
12      1999?

13          A.       That is correct.

14          Q.       Why would those dates be different?

15          A.       I don't know. The date open is normally  
16      the date on the actual note and Deed of Trust,  
17      mortgage, as well as the closing documents.

18                 MR. NOLAN: Can you mark this as an  
19      exhibit?

20                         (Exhibit No. 4 was marked for  
21                         identification.)

22      BY MR. NOLAN:

23           Q.       I've handed you a letter from OCWEN to  
24      David Daugherty dated March 18th, 2013. In this  
25      letter OCWEN states that Mr. Daugherty expressed

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1 concern regarding the past due amount reflected in  
2 the credit report made on March 2012, correct?

3 A. Okay.

4 Q. Do you know what this specific letter is  
5 responding to?

6 A. This is from the research department.  
7 And normally the research department looks at  
8 correspondence that was received from Mr. Daugherty.

9 Q. Can you tell if this was sent to the  
10 credit reporting department to review?

11 A. No. It doesn't -- it doesn't seem that  
12 way. This is based on their review of the account in  
13 regards to the past due account, when the borrower  
14 brought it current, and that based on their review  
15 that -- that the information that was reported to the  
16 bureaus was reported accurately.

17 MR. NOLAN: Jason, what I can do is I  
18 can just hand you the privilege log, instead of doing  
19 it page by page, and we can just have her flip  
20 through pages based on the Bates numbers. Does that  
21 seem to make sense at this point?

22 MR. MANNING: Sure. That would be fine.

23 MR. NOLAN: Can we mark this as an  
24 exhibit?

25 MR. MANNING: Are you talking about the

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1 comment --

2 MR. NOLAN: Yes.

3 (Exhibit No. 5 was marked for  
4 identification.)

5 BY MR. NOLAN:

6 Q. I am handing you the comment log that  
7 was produced by OCWEN, Bates numbers 1635  
8 through 1746. And initially here if we could flip to  
9 page 1662 -- or 1661. Excuse me.

10 A. (Witness complied.)

11 Okay.

12 Q. At the bottom of the page, on March 12th  
13 it appears that Shahbaz Hussain received a phone call  
14 from Mr. Daugherty.

15 A. Okay.

16 Q. Am I reading that correctly?

17 A. Okay.

18 Q. And on to the next page. It states  
19 Mr. Daugherty requested the fax number for the  
20 research department, correct?

21 A. Okay.

22 Q. Thereafter, on March 15th, 2013, OCWEN  
23 notes receiving correspondence from customer via fax.

24 A. Okay.

25 Q. Is that likely the letter that the

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1 research department was responding to?

2 A. Yes.

3 Q. Do you know if Equifax still has a copy  
4 of that letter?

5 A. This is a written response received  
6 directly to OCWEN from Mr. Daugherty.

7 Q. Correct.

8 Does OCWEN still have the letter  
9 Mr. Daugherty sent?

10 A. You said Equifax. That's why --

11 Q. Excuse me. I apologize. Let me clarify  
12 that then.

13 So Mr. Daugherty sent a letter via fax  
14 to Equifax on March -- to OCWEN on March 15, 2013,  
15 correct?

16 A. Yes.

17 Q. I believe the term fax and Equifax is  
18 getting me jumbled up there.

19 Does OCWEN still have a copy of this  
20 letter it received in March 2013?

21 A. They should, yes.

22 MR. NOLAN: Mark this as an exhibit, as  
23 well.

24 (Exhibit No. 6 was marked for  
25 identification.)

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1 BY MR. NOLAN:

2 Q. This is a letter dated March 20th, 2013  
3 from OCWEN to Mr. Daugherty. This letter was sent  
4 two days following their prior response letter on  
5 March 18, 2013, correct?

6 A. Yeah. Actually, it's backwards, but  
7 they responded to the request prior to this  
8 acknowledgment advising the borrower that the  
9 correspondence was received. So the response was  
10 responded before the actual normal business process  
11 for this receipt letter to be sent out.

12 Q. So there were not two separate letters  
13 sent by Mr. Daugherty to generate these two letters?

14 A. Let's see. 15. And a copy of the  
15 letter for Exhibit 2, dated March 18th, 2013, is  
16 mirrored in the notes.

17 Let's see here. And then on the 18th,  
18 after the response was sent out, there is -- on 1664  
19 on the bottom saying there is written dispute  
20 correspondence received again. And that receipt is  
21 from the credit bureau. So that is the credit  
22 reporting's response on the bottom of 1664.

23 Q. So it is a separate dispute?

24 A. Yes.

25 Q. The March --

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1           **A.       From the research department.**

2           Q.       So the March 18th letter was a response  
3 to a letter directly from the borrower?

4           **A.       On March 15th. Received on March 15th.**

5           Q.       And that was handled by the research  
6 department solely?

7           **A.       That is correct.**

8           Q.       And March 20th is responding to a  
9 dispute received from the credit reporting agencies?

10          **A.       That is correct.**

11          Q.       Okay.

12          **A.       And that's what the notes state.**

13                   MR. NOLAN: Mark this as Exhibit 7, I  
14 think.

15                               (Exhibit No. 7 was marked for  
16 identification.)

17                               (A recess was taken.)

18 BY MR. NOLAN:

19           Q.       Steve reminded me that I forgot my  
20 manners. Ms. Lyew, what was your position at OCWEN?  
21 I forgot to get the background on you.

22           **A.       Senior loan analyst in the law**  
23 **department.**

24           Q.       Where are you based out of?

25           **A.       West Palm Beach, Florida.**

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1 Q. And what did you review before you came  
2 today?

3 A. A lot of documents. Mainly the legal  
4 documents based on the complaint, the note log, the  
5 ACDV reports that OCWEN reported to the credit  
6 agencies, some screen printouts on what they use, on  
7 how it's reported, and some of their policies and  
8 procedures.

9 Q. And so what we're going to do now, I'm  
10 going to be bouncing between the comment log, ACDVs,  
11 and ACDV responses, so make sure you bear with me and  
12 make sure we're on the same page as we go through  
13 this. I want to keep it contemporaneously in terms  
14 of the chronology; you know, March, April, May, as we  
15 go through it.

16 A. Okay.

17 Q. Stop me if we're not all on the same  
18 page. I want to make sure we're all talking about  
19 the same thing.

20 This is Exhibit 7. And this was a  
21 document produced by Equifax in this case, but it  
22 purports to be an automated consumer dispute  
23 verification.

24 Is this form familiar to you?

25 A. No. I mean, I've seen the document, but

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1 it's not in our business records.

2 Q. Okay. And in some business records that  
3 I reviewed from OCWEN the response to the ACDV was  
4 included, but not all of them, which is why I'm going  
5 to try to go back and forth between the comment log,  
6 Equifax. And then when we have OCWEN's response  
7 forms, we'll go over those, as well.

8 A. Okay.

9 Q. But are you familiar generally with the  
10 Automated Consumer Dispute Verification form?

11 A. No. Oh. You mean the AUD form?

12 Q. The ACDV form.

13 A. The ACDV form? Yeah. I've learned to  
14 become familiar with it.

15 Q. Is this significantly different from  
16 what OCWEN uses?

17 A. No. Again, it's used -- they use a  
18 system e-Oscar. That's how all the agencies report  
19 or send their disputes or verifications or consumer  
20 disputes to the consumer -- to the debtors like us.

21 Q. So --

22 A. I'm sorry. You may want -- if you're  
23 going to show this, you might as well show the AC --  
24 the e-Oscar ACDV form. That's how you can -- it  
25 mirrors and matches.

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1 Q. And I'll show you what we've been  
2 provided.

3 A. Okay.

4 Q. This came from Equifax. Like I said, I  
5 don't recall seeing the response form from OCWEN to  
6 this specific dispute. Other disputes in here we're  
7 going to go over. OCWEN's response forms are  
8 included and attached. And we'll go over that, as  
9 well. On this specific one, I didn't find that.

10 A. It's there.

11 Q. I'm going to look over this. It says  
12 the date created was March 19th, 2013.

13 A. Okay.

14 Q. What does the control number above that  
15 refer to?

16 A. It says 99993078032699088.

17 Q. Is that something OCWEN created or  
18 something Equifax would have created?

19 A. This is a control number, so it came  
20 from Equifax. And OCWEN has noted the same number,  
21 in their note log, being received, on page 1664 in  
22 the bottom.

23 Q. And the subscriber code, is that  
24 referring to OCWEN or is that --

25 A. This is their subscriber code.

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1 Q. Whose subscriber code?

2 A. In this case, Equifax.

3 Q. Is that a code Equifax assigns to OCWEN?

4 A. I don't know.

5 Q. Do you know who would know how the  
6 subscriber code is assigned?

7 A. This is probably something that's  
8 generated from the credit agencies to the e-Oscar  
9 system, so that it is based on -- it's based on how  
10 it's supposed to be communicated through the system.

11 Q. But you can't tell me if Equifax assigns  
12 a code to OCWEN?

13 A. No, because the -- this is being  
14 received from Equifax to OCWEN. So based on what is  
15 being received, this is how it's identified in the  
16 note log.

17 Q. And so on the comment log, 1664 where  
18 you've identified, on March 20th, 2013 Harish Rao --  
19 is that the employee at OCWEN who received this  
20 dispute?

21 A. Yes.

22 Q. Does he work in the credit reporting  
23 department?

24 A. I will assume so.

25 Q. And from that is a code RS. What does

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1 that stand for?

2 A. That is research. So I'm not sure what  
3 department Mr. Harish Rao is in, but the other codes  
4 beside is a credit reporting code.

5 Q. And, then, out from that it lists the  
6 control number and subscriber code we've just  
7 identified on the OCWEN ACDV, correct?

8 A. Equifax. You mean Equifax?

9 Q. On the Equifax -- on the OCWEN call  
10 logs?

11 A. On the --

12 Q. OCWEN comment note logs here?

13 A. Yes. As being identified what was  
14 received.

15 Q. Okay. It identifies a dispute as not  
16 his or hers, on 1664?

17 A. Yes. It's identifying how the response  
18 came in.

19 Q. Now, if we go back to look at the  
20 Equifax ACDV form, it lists two disputes, correct?

21 A. I see that.

22 Q. One of which says not his or hers,  
23 correct?

24 A. Yes.

25 Q. And that's what Mr. or Ms. Rao

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1 identified as the dispute in the OCWEN note logs?

2 A. Correct.

3 Q. But Mr. Rao did not include the second  
4 dispute in his comment logs, correct?

5 A. Not by verbatim, other than provide or  
6 confirm complete ID.

7 Q. And the second dispute states disputes  
8 current/previous account status, payment history  
9 profile, payment rating, correct?

10 A. Yes. And it is identified on what was  
11 conducted on page 1665. And I guess as we go through  
12 the OCWEN records it will identify what was -- how it  
13 was reported back to the bureau, as well.

14 Q. So at the top of page 1665 it says  
15 reporting received from credit bureau. It was blank,  
16 correct? I'm just trying to make sure I'm reading  
17 this correctly as we go through this.

18 A. Where are you looking?

19 Q. At the very top of page 1665.

20 A. Okay.

21 Q. The very first entry says reporting  
22 received from credit bureau. And there is no  
23 information.

24 A. Right. It's below it. Reporting to  
25 credit bureau. And then it says verified.

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